

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
McALLEN DIVISION**

TIMMY VALENTINE
Petitioner

v.

DOUGLAS DRETKE
Respondent

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CIVIL ACTION NUMBER
M-05-123

ORDER OF TRANSFER

Petitioner Timmy Valentine filed this action seeking habeas corpus relief under 28 U.S.C. § 2254 regarding a conviction that took place in Harris County, Texas.

Pursuant to 28 U.S.C. § 2241(d), the court in which the application for a writ of habeas corpus was filed may transfer the application to the district where the state court which convicted and sentenced the petitioner is located. Moreover, under 28 U.S.C. § 1404(a), for the convenience of parties and witnesses and in the interest of justice, a court may transfer any civil action to any other district or division where it could have been brought. Such a transfer may be made *sua sponte*. See *Mills v. Beech Aircraft Corp.*, 886 F.2d 758, 761 (5th Cir. 1989). In habeas corpus proceedings, courts typically transfer a § 2254 petition to the district or division in which the petitioner was convicted and sentenced. See, e.g., *Mullins v. State of Texas*, 2003 WL 22398630, at *1 (N.D. Tex. Oct. 20, 2003); *Luesing v. Cockrell*, 2002 WL 598435, at *1 (E.D. Tex. Mar. 26, 2002).

Here, jurisdiction is proper in the Southern District of Texas, McAllen Division, as Petitioner was confined at the Segovia Unit in Edinburg, Texas, at the time he filed this action. However, Petitioner was convicted and sentenced in Harris County, which is in the Houston Division of the Southern District of Texas. See 28 U.S.C. § 124(b)(2). After considering the circumstances of this

case, the Court finds that the interest of justice would best be served by transferring this action to the Houston Division. Such a transfer will facilitate access to the convicting court and will be more convenient for potential witnesses. *See also* General Order dated May 30, 1985, "In the Matter of Filing Habeas Corpus Cases by the Clerk of Court" (directing that applications for writs of habeas corpus be filed in the division where the convicting court is located).

It is therefore **ORDERED** that the Clerk shall transfer this action to the Houston Division of the Southern District of Texas.

The Clerk will provide a copy of this Order to the parties.

DONE at McAllen, Texas this 28th day of April, 2005.


Peter E. Ormsby
UNITED STATES MAGISTRATE JUDGE